

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
MARCH 9, 2004**

Item 1 Griffitts, Trustee Option Agreement/DRP Rainbow River State Park Additions and Inholdings

REQUEST: Consideration of an option agreement to acquire 365 acres within the Division of Recreation and Parks Rainbow River State Park Additions and Inholdings project from Shelley Griffitts, Trustee.

COUNTY: Marion

LOCATION: Section 30, Township 16 South, Range 19 East

CONSIDERATION: \$2,300,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>(08/28/03)</u>	<u>(08/28/03)</u>				
Griffitts	365	\$2,000,000	\$2,300,000	\$2,300,000	*	\$2,300,000** (100%)	120 days after BOT approval

* Seller inherited property in 1998
** \$6,300 per acre

STAFF REMARKS: The Rainbow River State Park project has been identified on the Department of Environmental Protection's (DEP) Division of Recreation and Parks (DRP) Additions and Inholdings List. This agreement was negotiated by DEP's Division of State Lands on behalf of DRP under the State Parks Additions and Inholdings Florida Forever program.

All mortgages and liens will be satisfied at the time of closing. The property is improved with a 2,016-square-foot multi-stall horse barn and various fencing. There are two recorded 60-foot easements and rights-of-way granted to Edgar S. Roberts. In addition, approximately three acres of the subject property are encumbered by a one-half interest in and to all of the oil, gas and other minerals. The improvements, easements and encroachments were considered by the appraisers in their final reconciliation of value. DRP, the future managing agency, has determined that the property can be managed with the improvements, easements and encroachments in place. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore; DEP staff will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately

A title insurance policy, a survey, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing.

The property is an important addition to Rainbow Springs State Park and a vital link in the regional greenway network. This acquisition, which DEP has been pursuing for five years, will provide approximately 1,600 feet of shoreline, and also link the state park with the Marjory Harris Carr Cross Florida Greenway State Recreation and Conservation Area, thereby expanding recreational trail opportunities in the Marion County area.

This property will be managed by DRP as an addition to the Rainbow Springs State Park.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 1, Pages 1-33)

RECOMMEND APPROVAL

Item 2 BOT/Commercial Properties Southwest, Inc. Easement/Release of Easements

REQUEST: Consideration of a request to the Board of Trustees to release a 60-foot-wide ingress-egress easement and a one-mile segment of a second 60-foot-wide ingress-egress easement containing approximately 4.95 and 7.19 acres, respectively, in Collier County acquired by the Board of Trustees as part of two Rookery Bay National Estuarine Research Reserve acquisitions.

COUNTY: Collier

APPLICANT: Commercial Properties Southwest, Inc.

LOCATION: Section 32, Township 50 South, Range 26 East

CONSIDERATION: Limited use, paved 24-foot ingress-egress easement containing 2.513 acres, more or less; permitting and construction of one mile of fire break; and maintenance of the fire break for a period of five years

STAFF REMARKS: In April 1998, the Board of Trustees acquired 577.40 acres for addition to Rookery Bay National Estuarine Research Reserve (RBNERR), together with a 60-foot-wide ingress-egress easement (Easement 1) containing approximately 4.95 acres across adjacent land owned by Commercial Properties Southwest, Inc. (CPS Property). In March 1999, the Board of Trustees acquired an additional 556.57 acres, together with two 60-foot-wide ingress-egress easements containing approximately 3.63 acres (Easement 2) and 9.81 acres (Easement 3) that cross the same CPS Property, but at different locations. CPS is requesting that the Board of Trustees vacate Easement 1, and a one-mile segment (7.19 acres) of Easement 3 along the south boundary of its property in Section 32, Township 50 South, Range 26 East, in exchange for a limited use, paved 24-foot-wide ingress-egress easement (New TIITF Easement) containing approximately 2.513 acres that will utilize proposed subdivision roads to be built by CPS or its successors.

The Department of Environmental Protection (DEP), Office of Coastal and Aquatic Managed Areas (CAMA), currently manages RBNERR under Board of Trustees' Lease Number 3819. CAMA has reviewed the request and has no objection to the proposal for the following reasons:

- The original grantor of Easement 1, Lely Development Corporation (LDC), retained the right to alter the location of Easement 1 without the consent of the Board of Trustees. CPS is the successor in title to LDC of Easement 1 and, as such, has the ability to move Easement 1 to co-locate it with Easements 2 and 3 without the consent of the Board of Trustees, and proceed with the development of its property.
- CPS does not need to eliminate any of the easements to develop its property.
- Development of Easement 1 for access would result in impacts to 0.37 acre of wetland. Development of Easements 2 and 3 for access would result in impacts to 2.85 acres of wetland. Development of the New TIITF Easement does not impact any wetlands.
- Currently, Easements 1, 2 and 3 are unpaved and unimproved. The New TIITF Easement will be along a paved development road. CPS, or its successors, will be responsible for construction and maintenance of the paved access road.

Item 2, cont.

- CPS, or its successors, has agreed to permit and construct one mile of firebreak along the shared boundaries of the CPS Property and RBNERR and maintain the firebreak for a period of five years.
- RBNERR staff has no plans to develop a public entrance to RBNERR along either of Easements 1, 2 or 3. In the event RBNERR changes its mind in the future, the remaining portion of Easement 3, together with Easement 2, will still provide legal access to RBNERR.
- CAMA will gain use of a paved road for management activities at RBNERR at no cost to the state. CPS will be required to notify future purchasers of lots in its development that RBNERR staff regularly conduct prescribed fires, remove invasive plants, trap feral and domestic animals, and control illegal dumping on RBNERR lands, requiring use of the New TIITF Easement by RBNERR staff and their agents and contractors.
- The Board of Trustees will be releasing 7.19 acres of undeveloped easement in exchange for a 2.513-acre easement that will be paved and maintained by the applicant and that will provide access to RBNERR staff for management purposes (4.95-acre Easement 1 not considered as loss of easement acreage because the Board of Trustees could not prevent the co-location of Easement 1 with Easements 2 and 3). The Board of Trustees will still keep their legal access via Easement 2 and the remaining portion of Easement 3, which means a public access entrance can be built by RBNERR at any time in the future.

DEP, Division of State Lands' staff concurs with RBNERR's recommendation.

A consideration of the status of any local government comprehensive plans was not made for this item. DEP has determined that the proposed action is not subject to the local government planning process.

(See Attachment 2, Pages 1-35)

RECOMMEND APPROVAL

**Item 3 **BOT/Lee County/Dedication Modification/Partial Assignment & Assumption/
City of Cape Coral****

REQUEST: Consideration of a (1) Partial Modification of Restrictions on approximately 10.63 acres under Dedication No. 23255 between the Board of Trustees and Lee County, Florida; and (2) Partial Assignment and Assumption of Dedication No. 23255 from Lee County, Florida, to the City of Cape Coral for the 10.63 acres.

COUNTY: Lee
Dedication Number 23255

APPLICANTS: Lee County and the City of Cape Coral

LOCATION: Sections 08 and 17; Township 45 South, Range 24 East

Item 3, cont.

STAFF REMARKS: On November 27, 1962, the Board of Trustees approved the dedication of 59.69 acres to Lee County (County) for public road purposes, and for such other public purposes compatible with and not in conflict with said public road purposes as the Board of Trustees may deem appropriate and formally approve. The County subsequently built a bridge in the Caloosahatchee River linking unincorporated Lee County on the east end with the City of Cape Coral (City) on the west end. As designed and built, the bridge included filling of sovereignty submerged lands to create a bridge approach on each end. On the City side, the filled area is approximately 8.15 acres. On the County side, the filled area is approximately 0.5-acre. In 1976, the County issued a 99-year lease to the Cape Coral Chamber of Commerce (Chamber) for 0.78-acre on the City end. The Chamber built a 1,600 square-foot building and associated parking lot within the leased area and has been operating from that building on and off since 1976. The existing building has 15 parking spots and visitors have to park along the side of the street and on the grass when using the building or surrounding area.

The Chamber would like to construct a new 4,000 square-foot Chamber of Commerce Building with 68 parking spots; however, there is no evidence in any records that the Board of Trustees consented to the existing Chamber facility. To bring the existing facility into compliance, approval of a partial modification of dedication for 10.63 acres of the 59.59 acres is being requested that expands allowable uses to include a welcome center/chamber of commerce. The existing building will be removed to make room for the additional parking. The new facility will be used to welcome tourists, visitors and future investors in the community. The Chamber would like to partner with its Small Business Development Center to provide a learning center for small businesses to assist them in growing. The Chamber would also like to build a public park for access to the water. The partial modification of dedication also provides for public park use.

To accommodate the Chamber's plans, the County has requested that the 10.63 acres be assigned to the City. Department of Environmental Protection (DEP) staff has prepared a partial assignment and assumption of Dedication Number 23255 from the County to the City for the 10.63 acres.

The City contemplates building a boardwalk and pier as part of its public park. Any such structures will require a separate application for a DEP environmental resource permit for the use of sovereignty submerged lands.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. A compliance agreement between DCA and the local government has been finalized. The proposed action is consistent with the adopted plan according to a letter received from the City.

(See Attachment 3, Pages 1-30)

RECOMMEND APPROVAL

Item 4 Leon County/Sunland Hospital Surplus/James Dwyer Bid

REQUEST: Consideration of (1) a request to surplus 26.11 acres, more or less, in Tallahassee, Florida; and (2) approval of a bid amount of \$4,573,000 submitted by James A. Dwyer for the purchase of the 26.11 acres.

COUNTY: Leon

APPLICANT: James A. Dwyer

LOCATION: Section 29, Township 01 North, Range 01 East

CONSIDERATION: \$4,573,000 to be deposited into the Department of Children and Family Services' Administrative Trust Fund.

PARCEL	ACRES	APPRAISED BY		MINIMUM ACCEPTABLE BID AMOUNT
		Griffith (12/13/03)	Carlton (12/13/03)	
1	26.11	\$1,320,000	\$1,384,500	\$3,000,000

STAFF REMARKS: The Board of Trustees acquired the Sunland Hospital property on August 31, 1970 by virtue of section 253.03, F.S., as amended by chapters 67-269 and 67-2236. Section 253.03(6) states that, "commencing September 1, 1967, all land held in the name of the state or any of its boards, departments, agencies, or commissions shall be deemed to be vested in the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit by the state." When the Sunland Hospital was acquired, it served as the Intermediate Care Facilities for Mental Retardation. In 1983, the residing staff and program was relocated into community environment areas. The hospital has been vacant subsequent to the relocation.

Pursuant to chapter 2002-397, Laws of Florida and upon approval by the Board of Trustees, the Department of Environmental Protection's (DEP) Division of State Lands (DSL) may sell the Sunland complex, currently under lease to Department of Children and Family Services (DCF). The language states that proceeds from the sale of the property is to be deposited into DCF's Administrative Trust Fund and, subject to legislation appropriation, must be used to construct, renovate, equip, maintain and improve DCF's facilities.

DCF requested that the property be surplus and sold through a public sale. Section 18-020(2)(b), F.A.C, states "Disposal of surplus land shall be competitively bid except that parcels 5 acres or less in size or with a market value of \$100,000 or less may be sold by any reasonable means, including open or exclusive listing with real estate sales services, competitive bid, auction, and negotiated direct sales. In no case shall a real estate brokerage fee or auction fee exceed 10 percent of the purchase price."

Since April of 2003, DSL has aggressively marketed this property. Advertisements were placed in the Tallahassee Democrat, featured on commrex.com national commercial real estate website, and over 12,000 brochures were mailed to commercial real estate agents and developers in the southeast United States. The property was offered for bid by DSL twice. The first offering ran from April 7, 2003 to June 10, 2003, with a minimum bid of \$4,000,000. No bids were received from the first offering and subsequently the property was re-bid from January 5, 2004 to January 27, 2004. The second offering received four bids, two of which were bona fide offers as they were over the \$3,000,000 minimum bid amount and included the required 10 percent deposit or letter of credit. The bids submitted are as follows:

Item 4, cont.

<u>Name</u>	<u>Amount Bid</u>
TK Enterprises	\$ 1,100,000
Booth Holdings	\$ 3,200,000
James Dwyer	\$ 4,573,000
Charles Gardner	\$ 1,400,000

DSL is recommending approval of this bid award to Mr. Dwyer and that this recommendation is in the state's best interest. DSL spoke with Mr. Dwyer regarding his plans for the property. Mr. Dwyer's response was that his plans were not known at this time. At some point in the future, Mr. Dwyer would like to develop the property.

Pursuant to chapter 18-2.020(7), F.A.C., the property was advertised for three consecutive weeks in the Tallahassee Democrat: January 4, 2004 through January 18, 2004.

In accordance with sections 253.111 and 253.034(6)(f), F.S., Leon County and state agencies were notified of the sale. No interest in purchasing this property was received from Leon County or state agencies. Notice of the availability of the property was also given to the property owners within 500 feet, in accordance with section 253.115, F.S., and no objections were received.

A consideration of the status of the local governmental comprehensive plan was not made for this item. DEP has determined that surplus land sales are not subject to the local government planning process.

(See Attachment 4, Pages 1-27)

RECOMMEND APPROVAL

Item 5 USA/BOT/Family Paradise Island Resorts, Inc. Settlement Agreement

REQUEST: Consideration of a settlement agreement between the United States of America, Family Paradise Island Resorts, Inc., and the Board of Trustees resolving encroachments and title issues.

COUNTY: Monroe

APPLICANTS: The United States of America and Family Paradise Island Resorts, Inc., d/b/a Gilbert's Marina.

LOCATION: Section 36, Township 60 South, Range 39 East

CONSIDERATION: Value-for-Value

STAFF REMARKS: Over the past few years, the applicants and Department of Environmental Protection (DEP) staff have been working together on encroachment and title issues in an area adjacent to US Highway 1, in Blackwater Sound and along Jewfish Creek. The subject property adjoins the Everglades National Park (Park). DEP staff is recommending a settlement agreement among the two applicants and the Board of Trustees to resolve these issues.

Item 5, cont.

In 1943, the Board of Trustees deeded sovereignty lands adjacent to US Highway 1, along Jewfish Creek, to J. E. and F. F. Ravlins (Ravlins) (Trustees Deed No. 18852). After many conveyances, this property was ultimately conveyed to the current owner, Family Paradise Island Resorts, Inc. in April 1999. The owners still call it "Gilbert's Marina." (Marina)

In 1959, the Board of Trustees deeded thousands of acres of sovereignty and state-owned lands within Monroe County to the United States of America (United States) to be included in the Park, under section 264.09, F.S. The Park abuts the Marina. The deed to the United States contained a "condition subsequent that in the event said lands are not used for National Park purposes or if the use for such purposes shall be discontinued at any time by the United States, the title to said lands hereby conveyed, clear and unimpaired, shall thereupon automatically revert in the Trustees..."(Trustees Deed No. 22060)

In 1968, the Board of Trustees disclaimed 0.183 acres of filled lands adjacent to the Ravlins parcel to the Ravlins' successor in title. The area was filled pursuant to the Butler Act in or about 1950 under a permit from the U. S. Army Corps of Engineers. (Trustees Disclaimer No. 24718 (2063-44)). (Because these were lands that the Board of Trustees did not own by virtue of the Butler Act, they were not a part of the 1959 Park conveyance. The United States was made aware of this exception.)

In 1977, successor owners of the Ravlins' property recognized that certain finger piers and filled lands appeared to encroach into the Park. They applied to the (former) Department of Natural Resources (DNR) for a lease of the adjacent submerged lands. DNR staff at that time thought that since the activity fell within the Park that the United States was the proper authority to seek authorization. The owners received a ten-year permit from the United States for the encroachments. In 1987, DNR contacted the (new) successor owners, advising them that the Marina was an unregistered, grandfather facility and that they would have to obtain a lease from DNR. When the owners showed them the various deeds, DNR closed the file. Staff notes indicate that they believed that the land belonged to the United States.

In order to resolve the problem of the encroachments in the Park, the United States Congress passed Public Law 101-229, codified in pertinent part at 16 U.S.C. s. 410r-6(c)(1) in 1989. The law allowed the Department of the Interior to exchange "the approximately one acre of Federal land known as 'Gilberts' Marina' for non-Federal land of equal value located within the boundaries of the [East Everglades] addition. Any lands or interests in land which are owned by the State of Florida or any political subdivision thereof, may be acquired only by donation." For a variety of reasons, the United States could not proceed with the transfer until at least 2000.

In 2001, the United States determined that there was a potential problem with the exchange due to the Board of Trustees' automatic reverter upon the lands to be exchanged. The United States asked DEP's Division of State Lands (DSL) to release the reverter so that the exchange could occur. DSL did not immediately agree to the exchange because at that time it believed that the state owned the lands under the encroachments by virtue of the reverter, and that there were lease fees in arrears and interest due to the Board of Trustees. It has been determined that the lease fees and interest due to the present owners' occupancy total \$7,052.08. DSL believes that settlement is the best way to resolve the disputes between the parties.

To preserve each party's position for possible future litigation, the United States and Board of Trustees' staff have taken a unified position that one of them owns the submerged and the unauthorized filled lands in the encroachment area of the Park and that the Marina is encroaching on public lands in those areas. The proposed settlement benefits all the parties, including the public to whom the lands belong, by resolving a thirty-five year old dispute

Item 5, cont.

without costly litigation and placing the parties in the same position they had prior to the encroachments. The United States is anxious to settle at this time because there are only two parcels left in the East Everglades Addition that the Marina's owners can buy to exchange for the encroachment area under the 1989 statute. If the United States cannot exchange these lands, it would have to address the trespass issue in some other way. This could include enforcement action against the owners of the Marina, which could have the affect of placing the United States and DEP in adversarial positions.

DSL's appraiser agrees with the United States' appraiser that the lands comprising the encroachment area are worth \$8.50 per square-foot or \$21,000, although each used a different method to calculate the submerged land value. The United States believes the submerged lands are worth no more than \$1,400, while DSL believes, based on its typical submerged land leases, they are worth \$20,000-\$30,000. To resolve this issue, the Marina will exchange an equal amount of its submerged lands for the submerged land of the encroachment area. The proposed settlement agreement requires the following:

1. The Marina owners will provide the United States \$22,500 to purchase lands of equal value to the encroachment area in the East Everglades Addition for inclusion in the Park. The deed to the new Park land will contain language stating that title to the land will automatically vest in the Board of Trustees should they ever cease to be used for Park purposes;
2. The United States will quit claim all of the encroachment area to the Marina owners;
3. The Marina owners will exchange an equivalent amount of natural submerged lands they own for the Board of Trustees' quitclaim deed to the encroachment area; and
4. The Board of Trustees will waive the lease fees in arrears pursuant to rule 18-21.011(1)(b)11, F.A.C.

The Board of Trustees can reduce or waive lease fees in arrears, including interest and late fees, or lengthen the time in which a person must pay such fees, under rule 18-21.011(1)(b)11, F.A.C., if the Marina owners meet the criteria of the rule. DSL believes that the current owners of the Marina meet those criteria. They did not cause the violations and were unaware of the extent of the encroachments until after they acquired the lands. They took over management of the Marina in 1999 from other partners who had let it go into bankruptcy, and they are in the process of straightening out its many problems at considerable personal expense. They have not benefited from the profits made in years prior to 1999. The corporation is a small family facility, and despite their family's work efforts, the Marina is not yet making a profit due to the condition in which they bought it. They cannot afford to pay the retroactive lease fees and interest. They have fully cooperated with DEP and the United States in working toward resolution of the violations. They agree that they will do nothing in the future to encroach upon any public lands. Under these unique and special circumstances, DEP staff believes that approval of this settlement would be in the public interest.

No assessment of the County's Comprehensive plan is needed for this project.

(See Attachment 5, Pages 1-50)

RECOMMEND APPROVAL

Item 6 Atlantic Dry Dock Corp./Atlantic Marine Inc. Recommended Consolidated Intent

REQUEST: Consideration of an application for (1) modification of a five-year sovereignty submerged lands lease to increase the preempted area from 278,590 square feet to 554,605 square feet for a proposed 50,000-ton-capacity dry dock facility; (2) modification of a five-year sovereignty submerged lands lease to increase the preempted area from 107,669 square feet to 302,310 square feet for a proposed 15,600-ton-capacity dry dock facility; (3) a ten-year sovereignty submerged lands private easement containing 366,744 square feet, more or less, for a proposed access channel to a large-ship berthing area; and (4) authorization for the severance of 613,641 cubic yards of sovereignty material.

COUNTY: Duval
Lease Nos. 161530849 and 161008809
Application No. 16-138752-008-EI

APPLICANTS: Atlantic Dry Dock Corp. and Atlantic Marine Inc.

LOCATION: Sections 25 and 26, Township 01 South, Range 28 East, In the St. Johns River and Sisters Creek/Intracoastal Waterway, Class III Waters, within the local jurisdiction of the city of Jacksonville
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: Yes, with an approved manatee protection plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone: Yes, Slow Speed Shore to Shore (Sisters Creek/Intracoastal Waterway) and 300-foot Slow Speed Shoreline Buffer (St. Johns River)

CONSIDERATION: \$1,505,243.41, representing (1) \$124,551.16 as the initial lease fee computed at the base rate of \$0.1278 per square foot, including the initial 25 percent surcharge payment for the additional area; and (2) \$1,380,692.25 for the severance of sovereignty material computed at the rate of \$2.25 per cubic yard, pursuant to section 18-21.011(3)(a)2, F.A.C. The value of the easement will be determined upon receipt of an appraisal that has been reviewed and approved by the Bureau of Appraisal. Sales tax will be assessed, pursuant to section 212.031, F.S., if applicable.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity that require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The applicants are proposing to expand existing commercial shipyard facilities. This proposal entails creation of an access channel, extensive dredging, installation of dry docks, construction of piers, and shoreline stabilization. The United States Army Corps of Engineers' authorized channel in the St. Johns River is maintained at 400 feet wide and to a depth of -38 to -40 feet mean low water (MLW). Commercial, military, and recreational vessels heavily

Item 6, cont.

use the area. The expansion will accommodate military and commercial vessels up to approximately 946 feet long by 150 feet wide. The average length of stay at the facility is two weeks; however, the stay can range from two days to four months. Two large ships per week are anticipated to use the existing and proposed facilities combined.

The project occurs predominantly in the riparian area of the Atlantic Dry Dock Corp., with a small portion of the activity extending north on Sisters Creek into the adjacent riparian area of Atlantic Marine, Inc. The two companies are owned by Atlantic Marine Holding Company and perform separate but related shipyard activities. Both facilities have been in operation since the 1960s, providing vessel construction and repair services for commercial, military, and large private vessels. The site currently contains an existing dry dock with associated pier, a finger pier, two marine rails (large and small), shoreline stabilization, a potable water well, a stormwater pond with outfall, and a wastewater treatment plant with outfall. Existing leases to both facilities, and an existing easement to Atlantic Dry Dock Corp., authorize the current activities within the riparian area. The last major expansion was completed in February 2000, after the applicants received the authorizations necessary to dredge to -56 feet MLW to accommodate the "Sustain," a United States Naval 14,500-ton-capacity floating dry dock.

The existing sovereignty submerged lands lease to Atlantic Dry Dock Corp. (No. 161530849) approved by the Board of Trustees, authorizes the preemption of 278,590 square feet of sovereignty submerged lands. The proposed addition is 276,015 square feet, for a new total of 554,605 square feet. Within this eastern lease area, the applicants propose to construct a finger pier, remove 265 feet of riprap, replace 133 feet of bulkhead and add 807 feet of bulkhead; and dredge 197,000 cubic yards of sovereignty material to a depth of -60 feet MLW. The dredge basin will accommodate a new 50,000-ton-capacity floating dry dock on the eastern side of the pier. The removal of the riprap in the eastern lease area will impact 1,827 square feet of salt marsh. The applicants proposed off-site mitigation to offset the wetland impacts on-site. The mitigation proposal is to provide the funding necessary for a culvert replacement under Palmetto Avenue on Fort George Island in Duval County. DEP staff accepts the mitigation as adequate to offset the impacts of the proposed project.

The second existing sovereignty submerged lands lease to Atlantic Marine Inc. (No. 161008809 originally issued to Atlantic Dry Dock Corp., later assigned to Atlantic Marine Inc.), was approved by the Board of Trustees, and authorizes the preemption of 107,669-square feet of sovereignty submerged lands. The proposed addition is 194,641 square feet, for a new total of 302,310 square feet. If this lease modification is approved by the Board of Trustees, Atlantic Dry Dock Corp. will be added as a co-lessee. Within this western lease area, the applicants propose to extend an existing finger pier by 80 feet; remove 244 feet of bulkhead, replace 115 feet of bulkhead and add 235 feet of bulkhead within 12 inches of the existing bulkhead or landward; remove the existing small marine rail system; and dredge 94,239 cubic yards of sovereignty material to a depth of -45 feet MLW. The dredge basin will accommodate a new 15,600-ton-capacity floating dry dock on the east side of the finger pier. The proposed length of the dry dock and extended finger pier was reduced by 72 feet each, as requested by the United States Coast Guard, pursuant to concerns about navigability out of Sisters Creek/Intracoastal Waterway. The western lease area will also encompass the large ship berthing area (described below) to the north on Sisters Creek/Intracoastal Waterway. The area along the bulkhead is currently under the existing lease, but it will be expanded to approximately 110 feet out into Sisters Creek/Intracoastal Waterway. Approximately 900 feet of existing bulkhead will be replaced within about a foot of its current location.

The applicants are also proposing to dredge 322,402 cubic yards of sovereignty material for an access channel and large ship berthing area. The dredge basin will have a depth of -38 feet

Item 6, cont.

MLW to accommodate large ships being serviced by the facility. A portion of this dredge basin, 366,744 square feet, will be under a private easement for an access channel, held by both Atlantic Dry Dock Corp. and Atlantic Marine Inc. The remainder of the dredge basin, along the west side of the bulkhead (large ship berthing area), will be within the boundaries of the western lease area. The value of the easement will be assigned upon receipt of an appraisal acceptable by DEP's Bureau of Appraisal, as stated in the easement approval condition. DEP staff recommends that ten percent of the enhanced value be assessed, since the amount of public exclusion in the access channel is minimal. Throughout a year, Atlantic Dry Dock Corp. anticipates approximately 26 vessels to use the proposed easement.

Maintenance dredging will be required on an annual basis. Special pre-treatment is necessary for the dredging activities due to rock encountered above the target depth. Spoil disposal options include: disposal on the Florida Inland Navigation District's Site DU-6A on Fanning Island; the Gate Maritime Service Site on Little Marsh Island; the Jacksonville Port Authority Site on Buck Island; and a new, but undeveloped, upland site on adjacent Atlantic Dry Dock Corp.'s property. The final disposal plan is to be approved at a later date, as conditioned in the environmental resource permit (ERP). The severance fee is to be determined when the final spoil disposal plan is approved. A condition for disposal of spoil material on Buck Island is that the material is suitable for beach renourishment, in which case the severance fee may be waived. Pursuant to section 18-21.011(3)(c), F.A.C., a waiver of the dredge fees may be granted if the materials are placed on public property and used for public purposes.

All proposed activities are designed with provisions to prevent the entrapment of manatees and other sea life between the docks and the piers. A Marine Wildlife Safety Plan and a Manatee, Marine Mammal, and Sea Turtle Survey Watch Plan will be approved by the necessary agencies prior to any proposed construction, as conditioned in the ERP.

Duval County is a designated manatee county with an approved Manatee Protection Plan. The recommendations of the Florida Fish and Wildlife Conservation Commission regarding protection of manatees have been addressed in the ERP and/or special lease conditions. DEP's ERP does not authorize sewage pumpout facilities, liveboards, or fueling facilities. There are no sea grasses or significant resources at the site. The project was noticed as required, and ten objections were received from those who were noticed and from people who became aware of the project and live in the vicinity but were not specifically noticed. The issues raised by the respondents were regarding potential negative impacts to a pending Army Corps waterway study nearby (Mile Point Study), the people and wildlife in the area, residential property values, hazardous dust, noise, manatees, shoreline erosion, and undermining of docks. Many of the respondents requested additional studies and a hearing. The applicant is addressing these issues with the respondents.

A local government comprehensive plan has been adopted for this area, pursuant to Section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. In accordance with the Compliance Agreement between DCA and the local government, an amendment has been adopted which brought the plan into compliance. The proposed action is consistent with the adopted plan, as amended, according to a letter from the city of Jacksonville, dated July 24, 2003. The proposed action is not required to undergo a Development of Regional Impact review, pursuant to a letter from the Department of Community Affairs, dated February 20, 2004.

(See Attachment 6, Pages 1-35)

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION, SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$1,505,243.41 AND THE VALUE OF THE EASEMENT TO BE DETERMINED UPON RECEIPT OF AN ACCEPTABLE APPRAISAL

Item 7 AES Ocean Express LLC Recommended Consolidated Intent

REQUEST: Consideration of an application for a 25-year sovereignty submerged lands public easement, with fees, for a natural gas transmission pipeline.

COUNTY: Broward
 Easement No. 31003
 BOT No. 060226406
 File No. 06-0193181-002

APPLICANT: AES Ocean Express LLC

LOCATION: Sections 26 through 30 and 34 through 36, Township 50 South, Range 42 East, in the Atlantic Ocean, Class III Waters, within the local jurisdiction of the city of Dania Beach
 Aquatic Preserve: No
 Outstanding Florida Waters: Yes (West Lake Park)
 Designated Manatee County: Yes, without an approved manatee protection plan
 Manatee Aggregation Area: No
 Manatee Protection Speed Zone Area: Dania Cutoff Canal is a slow speed zone; however, the project will not be entering the ICW. No Entry Zone within Florida Power and Light cooling canal

CONSIDERATION: (1) An initial one-time easement fee at a rate of \$0.15 per linear foot based on a 25-foot wide easement as determined by a real property appraisal that considered the extent to which the easement is exclusionary, but did not consider the “enhanced value or profit gained by the applicant” pursuant to section 18-21.011(2)(b) 2, F.A.C.; (2) an interim “enhanced value or profit gained” fee of \$5.00 per linear foot of pipeline (based on a minimum width of ten feet) that crosses sovereignty submerged lands of the territorial sea out to the state’s territorial limit, and prorated for any increases in width due to the placement of gabions or mats covering the pipeline. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable. The initial one-time easement fee and interim “enhanced value” fee shall be determined based upon receipt of an acceptable survey and legal description of the easement area. The easement fee may be revised upward or downward at a later date should the Board of Trustees adopt rules revising the fees for easements, or establish different procedures for determining the “enhanced value or profit gained by the applicant”; and (3) \$13,317.75 fee for the severance of 5,919 cubic yards of sovereignty material computed at the rate of \$2.25 per cubic yard pursuant to section 18-21.011(3)(a) 2, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this “Recommended Consolidated Notice” contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity, which require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a “Consolidated Notice of Intent to Issue” that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a “Consolidated Notice of Denial.”

AES Ocean Express, LLC (Ocean Express) proposes to own, construct, operate, and maintain a 24-inch diameter natural gas pipeline and associated aboveground facilities that originates at the Exclusive Economic Zone (EEZ), designated as Mile Post (MP) 0.0, extends approximately 54.1 miles through federal and state waters, and terminates onshore at two

Item 7, cont.

delivery points in central eastern Broward County. The Ocean Express pipeline will interconnect at its origination point at the EEZ (MP 0.0) with the AES Ocean Cay pipeline. The AES Ocean Cay pipeline, to be constructed by a Bahamian affiliate of Ocean Express, will originate at the AES Ocean Cay liquefied natural gas facility located at Ocean Cay, Bahamas, and extend to the EEZ.

Of the approximately 54.1 miles of proposed pipeline, approximately 48.0 miles will be located offshore, and 6.12 miles will be located onshore. Of the approximately 48.0 miles of proposed offshore pipeline, approximately 43.03 miles (from MPs 0.0 to 40.48 and from Revised Mile Posts [RMPs] 40.48 to 43.03) will be located in offshore federal waters, and approximately 4.97 miles (from RMP 43.03, the State of Florida's 3-mile jurisdictional line to approximately RMP 48.0, the Erosion Control Line [ECL]) will be located on sovereignty submerged land within the State of Florida's jurisdiction.

Approximately 6.12 miles of pipeline will be located onshore (west of the ECL). Portions of the onshore route will traverse under the following major waterbodies and environmentally sensitive areas: the Intracoastal Waterway, the Dania Cutoff Canal, West Lake Park (Outstanding Florida Waters), a narrow mangrove wetland at the Florida Power and Light (FPL) site and FPL's Fort Lauderdale plant cooling canal.

The purpose of the Ocean Express Pipeline Project, in association with the AES Ocean Cay pipeline, is to transport 842 million standard cubic feet per day (MSCFD) of natural gas to service markets in Florida. Construction of the AES Ocean Express pipeline is scheduled to begin in late 2005 or early 2006 with active transport of natural gas to begin in late 2006 or early 2007.

Pursuant to section 18-21.004(1)(e), F.A.C., the project is being recommended for a fee associated public easement. Ocean Express proposes a 25-foot-wide easement over the entire length of the pipeline located on sovereignty submerged land within the State of Florida's jurisdiction.

The nearshore approach of the pipeline is located south of Port Everglades in Dania Beach. It will incorporate two horizontal directional drill (HDD) segments, and two direct-lay segments. The area of coastal waters out to the 200-foot depth contour (RMP 44.19) is designated as the "Nearshore" area. Within the Nearshore area, there is a reef system that consists of three reef tracts oriented approximately parallel to the coastline. These are known as, Reef 1 (located closest to the shoreline), Reef 2 (consisting of two sections of reef, designated as Reef 2-Inner and Reef 2-Outer that are separated by a sandy area), and Reef 3 (located most oceanward).

Potential impacts to reef habitat by pipeline installation will be avoided by the use of an approximately 6,100-foot-long shore-crossing HDD (Landfall HDD), traversing beneath the Reef-1 and Reef 2-Inner (designated as Segment 1, RMP 48.03 to RMP 46.88). The Landfall HDD exits into the sand area between Reef 2-inner and Reef 2-outer within an abandoned sand borrow area. The pipeline will then be routed approximately 7,000 feet due South, and installed directly on the seafloor in the sandy area between Reef 2-Inner and Reef 2-Outer. The pipeline will then turn East through a natural gap in Reef 2-Outer for a distance of approximately 2,200 feet (designated as Segment 2, RMP 46.88 to RMP 45.15) where a second approximately 2,400-foot long offshore water-to-water HDD (Offshore HDD) originates at another abandoned sand borrow pit. This Offshore HDD traverses beneath the third reef, thus avoiding impacts to the third reef, and exits approximately 1,000 feet east of Reef 3 (designated as Segment 3, RMP 45.15 to RMP 44.70). The pipeline will then be routed approximately due east, and laid directly on the seabed for the remaining approximately 8,818 linear feet out to the state's three-mile jurisdictional line (designated as Segment 4, RMP 44.70 to RMP 43.03). The portion of the pipeline to be laid directly on the seabed within the Nearshore area, which includes Segment 2 and the portion of Segment 4 out to the 200-foot

Item 7, cont.

depth contour (RMP 44.19), shall be covered with articulated concrete mats. The remaining portion of pipeline in Segment 4 oceanward of the Nearshore area will not be covered. Specific pipeline installation methods are included in the "Florida Nearshore Installation Methods" document, incorporated into the environmental resource permit (ERP) as Attachment A.

The Onshore pipeline portion of the Ocean Express pipeline initiates at the Dania Beach Traffic Circle, and extends generally westward for 6.12 miles through undeveloped areas, under West Lake Park, and along existing rights-of-ways in heavily commercialized and industrialized areas of Hollywood, and will terminate at a Florida Gas Transmission (FGT) interconnection and a FPL interconnection at the Fort Lauderdale Power Plant, located on the Dania Cutoff Canal, approximately 1.3 miles east of the Florida Turnpike.

The Onshore section of the Ocean Express pipeline will be installed by the open trench method where possible, and by the HDD at major roads and major waterway crossings, and at other difficult and environmentally sensitive locations. The following six segments of the onshore pipeline route will be installed by HDD methodology: (1) an approximately 1,350-foot long HDD segment from the Dania Beach Traffic Circle, where the offshore pipeline makes landfall, to an exit point along the north side of Dania Beach Boulevard to traverse below the Intracoastal Waterway; (2) an approximately 3,250-foot long HDD segment traversing under West Lake Park and Dania Cutoff Canal running just west of an existing FPL access road and exiting at an open area within the Southport portion of Port Everglades; (3) an HDD segment from the open area at Port Everglades to the west side of NE 7th Avenue, to traverse under NE 7th Avenue; (4) an approximately 1,850-foot long HDD segment to traverse under U.S. Highway 1 and Perimeter Road; (5) an approximately 1,700-foot long HDD segment to traverse under Interstate I-95; and (6) an approximately 1,000-foot long HDD segment to traverse under a narrow mangrove wetland and the cooling canal at the FPL Fort Lauderdale Power Plant.

The open trench methodology will be used to install the portions of pipeline located between the HDD segments. Three segments of the pipeline to be installed by Open Trench methodology are located adjacent to, or near wetlands. These segments include (1) an approximately 2,650-foot long section adjacent to wetlands of West Lake Park along the north side of Dania Beach Boulevard; (2) a section located adjacent to and across Perimeter Road from wetlands; and (3) an approximately 0.35 mile long section to be installed within the FPL access road that is adjacent to wetlands located on the FPL property. The remaining sections of pipeline to be installed by Open Trench methodology are not adjacent to wetlands.

The Onshore pipeline construction has been designed to have no wetland impacts. This has been accomplished through careful selection of the route in areas adjacent to wetlands, incorporating HDD methodologies to pass under unavoidable wetland crossings, and only using open trench methodologies in areas which allow adequate work spaces without wetland impacts. In the event that there are wetland or surface water impacts from Onshore construction activities, Ocean Express shall immediately notify DEP and implement contingency actions to remediate the impacts, and shall submit a Mitigation Plan that is acceptable to DEP to offset the impacts.

State-owned uplands will be traversed by the pipeline within West Lake Park, which is state-owned uplands that are managed by Broward County. Ocean Express has revised the project route in the vicinity of West Lake Park to the route suggested and recommended by Broward County Parks and Recreation Division staff in order to minimize potential disturbance to pristine mangrove wetlands. The route is aligned on the west side of an existing FPL access road, beneath an area of previously disturbed mangroves, and will utilize HDD technology to go under the mangroves. The access road will act as a berm between the HDD area and the

Item 7, cont.

undisturbed mangrove wetlands in the northeast area of Wet Lake. The upland easements for West Lake Park have already been determined by the Acquisition and Restoration Council to be consistent with the management plans for the affected state-owned uplands, and will be obtained under a separate Board of Trustees' action.

Offshore construction impacts will occur from the excavation of the HDD entry and exit pits, from the HDD temporary work areas, from the footprint of the direct-lay portion of the pipeline, and from the sedimentation associated with pipeline pullback. Directly impacted will be 3.27 acres of marine resources (1.2 acres of Type B Habitat and 2.07 acres of Type D Habitat; see the following Permitted Ocean Express Mitigation Ratios Table). Ocean Express has demonstrated avoidance and minimization to marine resources by the following:

- Evaluation of numerous potential route alternatives;
- Selection of the most environmentally favorable route available;
- Avoidance of impacts to high and medium density reef systems (Habitat Type A);
- Implementation of a coral relocation plan prior to and during construction;
- Use of HDD to avoid impacts to the offshore reefs;
- Use of a marine riser system during HDD operations to reduce potential turbidity and sedimentation impacts;
- Use of a floatover system with associated lateral guidance system during HDD pull-thru operations to avoid impacts to Reef 2-Outer;
- Use of midline buoys on mooring lines;
- The establishment of work area buffers to protect important resources;
- The designation of Temporary work areas; Contingency work areas; Exclusion zones; Vessel transit areas; Vessel holding areas; and Anchor safety zones;
- The development of special anchor handling and placement procedures;
- The use of guide piles in sandy areas to reduce the risk of potential impacts to hard bottom areas during pipe placement;
- The development and implementation of an extensive frac-out monitoring program;
- Revision and realignment of the concrete mats from the standard concrete mats (8 ft. x 20 ft.) installed perpendicular to the pipe to the revised mats (with dimensions of 12 ft x 20 ft) installed lengthwise parallel to the pipeline which reduces the permanent impact corridor from 16 feet wide to 9 feet wide;
- Implementation of a voluntary 15 NTU turbidity standard at reef edges; and,
- The development of a comprehensive Environmental Construction Monitoring and Verification Plan (ECMVP).

Ocean Express, along with input from the regulatory agencies, has developed several marine construction plans and procedures designed to reduce the chances of additional impacts to coral reef communities and the marine flora and fauna that utilize and depend on them. The marine construction contingency plans include methods to further protect natural resources such as water quality, threatened and endangered species, and proposes mitigation to offset the impacts that could not be avoided or minimized during the permitting process.

Along with the avoidance and minimization designs outlined in the paragraph above, the implementation of a 'Florida Nearshore Installation Methods' Plan, Attachment A of the ERP, and the implementation of a comprehensive Environmental Construction Monitoring and Verification Plan (ECMVP, Attachment C of the ERP), developed with input from regulatory agencies, offers additional methods to protect natural resources and water quality. Furthermore, the ECMVP proposes mitigation to offset the impacts that could not be further avoided or minimized during the permitting process. The ECMVP provides the following plans/guidelines that shall be strictly adhered to during project activities:

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- Appendix A: Spill Prevention, Control and Countermeasures Plan;
- Appendix B: Upland Erosion Control, Revegetation, and Maintenance Plan;
- Appendix C: Wetland and Waterbody Construction and Mitigation Procedures;
- Appendix D: Marine Biological (Manatee, Cetacean and Sea Turtle) Monitoring Plan;
- Appendix E: Plan for the Unanticipated Discovery of Hazardous Wastes or Contaminated Sites;
- Appendix F: Hydrotesting and Pre-Commissioning Plan;
- Appendix G: Marine Turbidity, Sedimentation and Reef Monitoring Plan;
- Appendix H: HDD Monitoring and Contingency Plan;
- Appendix I: Offshore Mitigation and Restoration Plan;
- Appendix J: Environmental Training Syllabi;
- Appendix K: Emergency Scenario and Response Plan;
- Appendix L: Florida Nearshore Maneuvering and Anchoring Guidelines;
- Appendix M: Miami Escarpment Installation Guidelines;
- Appendix N: Coral Relocation Plan; and
- Appendix O: Storm Handling Plan.

The referenced plans are attached to and will become part of the ERP should it be issued.

DEP staff recognizes that the jurisdiction of the Environmental Resource Program extends from the erosion control line out three geographic miles to the state's territorial limit; however, DEP's Office of Intergovernmental Programs (OIP) coordinates DEP's position on the consistency of federal projects and federally funded activities with applicable departmental policies and regulations, and provides comments to the Florida State Clearinghouse in accordance with Presidential Executive Order 12372, the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA) and other federal laws and policies. Along with the nearshore coral reef's and resources within the state's jurisdiction, there are benthic resources and habitats in federal waters, including deep water coral and hardbottom resources at the Miami Terrace and Escarpment, that provide critical ecosystem functions to resources important to the state of Florida. DEP acknowledges that Ocean Express, as required by the FERC Certificates, will avoid and minimize impacts to these habitats and mitigate unavoidable impacts in federal water in the manner consistent with Table 4 of the Offshore Mitigation and Restoration Plan, Appendix I of the ECMVP.

In order to offset the impacts to 1.2 acres of Type B Habitat and the habitat conversion of 2.07 acres of Type D Habitat, Ocean Express shall remove 117,176 tires (8.07 mitigation units) from a 31.0 acre artificial reef site created off the coast of Broward County using waste automobile tires. Storm events and ocean currents have moved the tires from their original deployment site in sandy bottoms up onto the second and third reef systems resulting in significant impacts to natural marine resources. It is the intent of the mitigation plan to enhance the existing natural reef systems by removing the tires from on top of and adjacent to the reefs thus allowing natural restoration of the newly exposed reef face by recruitment of new coral species. Based on observations, tires in the Priority 1 removal zone of the mitigation area are, on average, three layers deep, it is anticipated that the 117,176 tires will occupy approximately 2.69 acres, a portion of which will occur on the Second Reef. However, the final acreage of the mitigation area may vary depending on the actual density of tires present.

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Permitted Ocean Express Mitigation Ratios

Habitat Type	Ratio
A- 20-100% cover by attached epi-benthic biota and/or hard bottom with > or = 0.25 meter in relief, inclusive of sand components integral to these habitats	8 units:1acre
B- 5-20% cover by attached epi-benthic biota and/or hard bottom < 0.25 meter in relief, inclusive of sand components integral to these habitats	5 units:1acre
D- sand (soft substrate/sedimentary) habitat in proximity to reef/hard bottom resources, sand veneer over hard substrate with < 5% attached epi-benthic coverage	1 unit:1acre

One mitigation unit is equal to the number of tires comprising an acre of the tire field, one layer deep. The area covered by one tire is 3.0 square feet. Therefore, the number of tires contained in one acre of a single layer of tires = (43,560 square feet per acre)/(3 square feet per tire) = 14,520 tires per mitigation credit.

The number of tires that will need to be removed to offset unavoidable impacts to marine resources for the AES Ocean Express Pipeline project = (8.07 mitigation credits) x (14,520 tires per credit) = 117,176 tires.

The proposed compensatory mitigation for the nearshore marine portion of the Ocean Express project will consist of two primary activities: the one-time removal and disposal of 8.07 mitigation units (117,176 tires) from a portion of the Priority Area 1 of an artificial reef site north of the construction area; and following tire removal, Ocean Express shall provide funds to Broward County Department of Planning and Environmental Protection for the long-term monitoring of the mitigation area.

Ocean Express has engineered several innovative construction methods proposed to minimize impacts to the offshore marine environment. While the water-to-water HDD method offers impact minimization, there are higher environmental risks associated with this methodology than with the traditional upland-to-upland bores commonly used. Empirical evidence has documented that there is a high probability of an inadvertent release of drilling mud that may occur on the ocean floor causing potential damage to the coral reefs and other important marine resources.

Bore hole abandonment during drilling, failure to successfully pull back the pipeline into the bore holes, and failure of the Float Over/Lateral Guidance System for pipestring pull-thru into the Landfall HDD all represent failure of the construction methodologies proposed for the offshore pipeline installation. Because of the environmental risks associated with the pipeline construction, the ERP authorizes only one attempt at the following pipeline installation methods:

- One HDD (Landfall HDD) bore hole originating from Dania Beach Traffic Circle, traversing under Reef 1 and Reef 2-Inner, and punching out approximately 6,000 feet offshore between Reef 2-Inner and Reef 2-Outer.

Item 7, cont.

- One attempt of the Float Over/Lateral Guidance system method for Pipestring pull-thru through the Landfall HDD. If the system fails and the pipestring contacts the seabed (in any Habitat type), another effort shall not be attempted.
- One 2,300-linear foot water to water horizontal directional drill (Offshore HDD borehole originating on the inside (landward) of Reef 3, extending under and exiting oceanward of Reef 3, and one associated pipestring pull-thru.

Any additional bore hole entrance points, any additional attempts of the pipestring pullback, and any additional attempts for the Float Over/Later Guidance system shall require a permit modification from the FDEP.

To address the increased risk of possible additional unanticipated environmental impacts, Ocean Express shall provide DEP with financial assurance in the form of a Letter of Credit, Surety Bond, or some other pre-approved financial instrument for inadvertent or non-permitted environmental damage in the amount of \$774,675 in order to compensate the state for the costs of reasonable measures taken to prevent or limit environmental damage and for clean-up and restoration of the environment to its previous state; and to cover costs where responsibility for the damage cannot be determined, or where those liable are insolvent.

The environmental review process for the AES Ocean Express Pipeline project was achieved through a "coordinated permitting" approach. Initiating in January of 2003, a core group of agency representatives frequently met with Ocean Express to discuss means of avoiding and minimizing impacts to wetlands and coral reef habitat. Consideration was given to alternative alignments, construction methodologies, contingency plans, and other best management practices that should be incorporated into the construction procedures to address unanticipated accidents or impacts. Members of this "Coordination Team" included representatives from DEP's Southeast District Office ERP Program, DEP's Office of Intergovernmental Programs, Broward County Department of Planning and Environmental Protection, National Oceanic and Atmospheric Administration's National Fisheries Management Service, U.S. Army Corps of Engineers, Florida Fish and Wildlife Conservation Commission's (FFWCC) Florida Marine Research Institute, FFWCC's Bureau of Protected Species, U.S. Environmental Protection Agency, and the U.S. Department of Transportation. The result of this coordinated effort was a streamlined review process for Ocean Express and the development of detailed marine construction contingency plans to aid in resource protection.

Ocean Express' project was required to go through two independent processes with the Federal Energy Regulatory Commission (FERC). One was a determination of Public Convenience and Necessity, and the other was an Environmental Impact Statement performed by FERC. For the demonstration of Public Convenience and Necessity or "project need," FERC was required to look at each project individually to see if one pipeline, as a stand-alone project, would fulfill the requirements of Florida's ten-year energy plan. FERC determined that the project would meet the 'need' criteria and issued the final certification to AES Ocean Express LLC on January 29, 2004.

The City of Dania Beach (City) passed and adopted on January 28, 2003 a resolution (2003-013) of the City Commission opposing the construction of the AES Ocean Express Pipeline project. The resolution expressed the following concerns: risks of substantial injury to reefs and marine life; damage to the City's shoreline, roadways, and right-of-ways; probable

Item 7, cont.

interruption of utility services; potential for harmful exposure to the City's residents and visitors by leaks, ruptures, and terrorist attacks on the pipeline; and possible adverse effects upon air quality. The resolution states that the environmental issues and other concerns associated with the pipeline construction preclude the City's support of the project.

The Naval Surface Warfare Center, Carderock Division (NSWCCD), had notified Ocean Express of concerns that it had with the proposed pipeline project. Ocean Express and NSWCCD, after exchanging extensive technical information and participating in several meetings, have reached an agreement regarding measures design to resolve NSWCCD's concerns by means of certain routing variations and modifications to the design and construction of the Ocean Express Pipeline and the adoption of certain construction and operating procedures. The Memorandum of Agreement (MOA) was signed by the U.S. Navy on February 20, 2003.

The State Historic Preservation Office (SHPO) has required that 'onshore resource probability' areas and 'offshore anomalies' be investigated and information provided to them by Ocean Express prior to commencement of pipeline construction. The requirement of SHPO has been included as a specific condition in the ERP.

The recommendations of the FFWCC regarding the protection of manatees and sea turtles have been addressed in the ERP.

To construct a project within sovereignty submerged lands outside of an aquatic preserve, it must be demonstrated that the project is not contrary to public interest. This project is not located in an aquatic preserve. The construction of the proposed facilities will help satisfy the growing demand for natural gas in Florida, diversify the sources of supply to the state, and increase competitive alternatives to the existing pipeline infrastructure. Ocean Express' project will provide a public benefit as it will introduce substantial new volumes of clean burning natural gas into Florida. DEP staff is of the opinion that with the payment of equitable compensation, environmental resource remediation and mitigation the proposed project is not contrary to the public interest, pursuant to section 18-21.004(1)(a), F.A.C.

Property owners within a 500-foot radius of the proposed sovereignty submerged lands public easement were specifically noticed via certified mail, pursuant to section 253.115, F.S., and no comments or objections were received.

The project is not located in an aquatic preserve. DEP staff is of the opinion that with the payment of equitable compensation, and environmental resource remediation and mitigation, the proposed project is in the public interest pursuant to section 18-21.010(1)(e), F.A.C.

The Department of Community Affairs (DCA), Division of Community Planning, determined that the project is consistent with the statutes included in the Florida Coastal Management Program, however they had several recommendations regarding public safety related issues. DCA recommends the following: (1) Ocean Express shall construct the entire pipeline to U.S. Department of Transportation, Office of Pipeline Safety, Class 4 Standards in order to eliminate the need for future upgrades and to provide an additional measure of protection to persons living or working near the pipeline; (2) Ocean Express shall add odoriferous gas (the odorant 'ethyl mercaptan' or equivalent) to the gas transported by the pipeline on land. A pipeline rupture or leak would release a sufficient quantity of odorized gas to alert persons in the area of the leak or rupture, (3) Ocean Express shall join the Florida One Call Program; (4) Ocean Express shall submit to the Division of Community Planning an emergency response plan prior to construction. The plan should describe the pipeline operator's notification procedures, internal response and coordination and should describe the applicant's procedures in preparing for and responding to a storm or terrorist event during construction and operation of the pipeline and associated facilities. Also, the plan should reflect an awareness of the Broward County and state emergency management procedures; and (5) a baseline internal

Item 7, cont.

inspection shall be made of the pipeline before being placed into service using a high-resolution magnetic flux in-line tool, or its technological equivalent. This would find any potential defects and create a record to compare future tests. The system's Operation and Maintenance plan required by Code of Federal Regulation Part 192 should include a procedure for periodic internal reinspections every five years. The FERC certificate requires that the proposed pipeline be constructed, operated and inspected in accordance with all applicable construction, safety and inspection standards for interstate natural gas pipelines established by the U.S. Department of Transportation, which has exclusive jurisdiction over these issues.

(See Attachment 7, Pages 1-58)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,
AND SPECIAL EASEMENT CONDITIONS**

Item 8 Tractebel Calypso Pipeline, LLC Recommended Consolidated Intent

REQUEST: Consideration of an application for a 25-year sovereignty submerged land public easement, with fees, for a natural gas transmission pipeline.

COUNTY: Broward
 Easement No. 30669
 BOT No. 060223896
 File No. 06-0186699-002

APPLICANT: Tractebel Calypso Pipeline, LLC

LOCATION: Sections 19 through 24 and 28 through 30, Township 50 South, Range 42 East, in the Atlantic Ocean, Class III Waters, making landfall within the local jurisdiction of the city of Dania
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: Yes, without an approved manatee protection plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone Area: Slow Speed Year Round within the Port Everglades turning basin, No Entry Zone within Florida Power and Light cooling pond

CONSIDERATION: (1) An initial one-time easement fee at a rate of \$0.15 per linear foot based on a 25-ft. wide easement and as determined by a real property appraisal that considered the extent to which the easement is exclusionary, but did not consider the "enhanced value or profit gained by the applicant" pursuant to section 18-21.011(2)(b)2, F.A.C.; (2) an interim "enhanced value or profit gained" fee of \$5.00 per linear foot of pipeline (based on a minimum width of ten feet) that crosses sovereign submerged lands of the territorial sea out to the state's territorial limit, and prorated for any increases in width due to the placement of gabions or mats covering the pipeline. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable. The initial one-time easement fee and interim "enhanced value" fee shall be determined based upon receipt of an acceptable survey and legal description of the easement area. The easement fee may be revised upward or downward at a later date should the Board of Trustees adopt rules revising the fees for easements, or establish different procedures for determining the "enhanced value or profit gained by the applicant;" and (3) \$7,745.00 fee for the severance of 3,342 cubic yards of sovereignty material computed at the rate of \$2.25 per cubic yard pursuant to section 18-21.011(3)(a) 2, F.A.C., which the applicant has already paid.

Item 8, cont.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this “Recommended Consolidated Notice” contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a “Consolidated Notice of Intent to Issue” that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a “Consolidated Notice of Denial.”

The applicant is proposing to construct and operate a 24-inch natural gas pipeline and associated aboveground facilities that extend 90 miles from a liquefied natural gas (LNG) import/export terminal proposed to be constructed near Freeport, Bahamas, to a landing point in Fort Lauderdale within John U. Lloyd Beach State Park, through Port Everglades and ultimately terminating inland at the Florida Power & Light property located in southeastern Broward County.

State-owned uplands will be traversed by the pipeline within John U. Lloyd State Park. Staff has received a letter from the DEP’s Division of Recreation and Parks setting out the benefit package to the park and stating they have no objections to the project. The upland easements for John U. Lloyd were approved by the Acquisition and Restoration Council on August 15, 2003, and will be obtained under a separate Board of Trustees’ action.

The project is located entirely within the States’ coastal marine waters, federal waters, and upland onshore areas, including wetlands, in Broward County, Florida. The pipeline will include the following: approximately 31.6 statute miles (27.4 nautical miles) in offshore federal waters from the Exclusive Economic Zone (EEZ) to the limits of Florida state waters off the southeast Florida coastline; approximately 4.4 statute miles (3.8 nautical miles) in Florida state coastal waters; and approximately 6.5 miles onshore in southeastern Broward County.

The purpose of the Tractebel Calypso Pipeline Project is to transport 832 million standard cubic feet (MSCF) of natural gas per day to service markets in Florida. Construction of the Tractebel Calypso Pipeline is scheduled to begin in 2005 with active transport of natural gas to begin in 2007.

The nearshore approach is located near Port Everglades in Dania Beach, and will incorporate two sequential horizontal directional drills (HDD) and trenching. The first horizontal directional drill (HDD #1) will originate from the state park and will “punch out” 4,616 feet offshore within a hardbottom/livebottom area known as the Submerged Breakwater Spoil Area. The second horizontal directional drill (HDD #2) is a 5,130-foot water-to-water drill that will begin in the Submerged Breakwater Spoil Area, extend under the second and third coral reef systems, and will terminate in a hardbottom area described as the Third Reef Transitional Area. The three HDD entrance/exit holes (HDD #1 exit, HDD #2 entrance, and HDD #2 exit) will be dredged using a clamshell dredge, and each hole will measure 75-feet long by 60-feet wide by 20-feet deep. Between the two horizontal directional drill segments, an approximately 2,132-foot long by 25-foot wide by 6-foot deep trench will be excavated by clamshell dredge through the Submerged Breakwater Spoil Area. Once the drills and trench are complete, the pipeline will be pulled back into the two HDD bore holes, connected, then placed in the linear trench. The trench will then be backfilled with washed crushed rock and overlain with rock cobbles. In water depths of 120 to 200 feet mean sea level, the 1,836-linear-foot span of the

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pipeline will be laid directly on the sea bottom and covered with articulated concrete mats. In water depths exceeding 200 feet, the pipeline will be coated with concrete for stability on the bottom and to provide protection of the pipe; however, the pipeline will not be covered.

The Onshore pipeline portion of the Tractebel Calypso Pipeline project will begin at the directional drill site for the Nearshore pipeline located in John U. Lloyd State Park. The Onshore pipeline segment will extend generally westward approximately 6.5 miles through heavily commercialized and industrialized areas of Broward County and will tie into the Florida Gas Transmission (FGT) pipeline system near the FPL Fort Lauderdale power plant located on the Dania Cut-off Canal, 1.3 miles east of the Florida Turnpike.

Onshore pipeline construction will be accomplished using open-cut trenching methods, HDD, and jack and bore techniques. The pipeline will be horizontally directional drilled from the John U. Lloyd landing, (HDD B) for approximately 5,280 linear feet underneath the Port Everglades turning basin to the Port Everglades property. From there, the pipeline will be constructed using open-cut installation methods from the Port Everglades property to Interstate 95 (3.4 miles). The pipeline will then be horizontally directional drilled under Interstate 95, and the remaining portions of the project (1.8 miles to the Western terminus of the project) will be trenched using the open cut method. Three waterbodies will be crossed using open-cut trenching methods: a drainage ditch located just west of Port Everglades; a drainage ditch at the Fort Lauderdale Airport; and a 230-foot-wide crossing of a cooling pond located on the FPL property. Along the terrestrial route, 11 surface roads and railways will be crossed utilizing the jack and bore method of installation.

The onshore pipeline construction will temporarily impact 0.26 acre of wetlands and surface waters. In order to offset those impacts, the applicant will restore the impacted areas to original grade and will enhance two wetland areas (totaling 0.16 acre) by removing exotic vegetation and replanting with native wetland plants suitable for the impacted area.

During offshore construction, the excavation of the HDD entry and exit pits, the open-cut trench, and the pipeline pulls along the ocean floor will directly impact 7.14 acres of marine communities and resources through disturbance and removal of habitat, turbidity and sedimentation effects. The applicant has demonstrated avoidance and minimization to marine resources by the following: routing a portion of the pipeline using a guided pipeline pull method through a gap in the third reef; traversing sandy habitats and areas of low relief hardbottoms, such as in the Submerged Breakwater Spoil Area; and by relocating corals and sponges of a required size out of the project impact area. The applicant, after input from the regulatory agencies, has developed several marine construction plans and procedures designed to reduce the chances of additional impacts to coral reef communities and the marine flora and fauna that utilize and depend on them.

DEP staff recognizes that the jurisdiction of the Environmental Resource Program extends from the erosion control line out three nautical miles to the state's territorial limit; however, the DEP's Office of Intergovernmental Programs (OIP) coordinates DEP's position on the consistency of federal projects and federally funded activities with applicable departmental policies and regulations, and provides comments to the Florida State Clearinghouse in accordance with Presidential Executive Order 12372, the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA) and other federal laws and policies. Along with the nearshore coral reefs and resources within the state's jurisdiction, there are benthic resources and habitats in federal waters, including deep water coral and hardbottom resources at the Miami Terrace and Escarpment, that provide critical ecosystem functions to resources important to the state of Florida. DEP has strongly encouraged the applicant to avoid and minimize impacts to these habitats and mitigate unavoidable impacts in a manner

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consistent with what is required under the Environmental Resource Program in state waters.

The marine construction contingency plans offer methods to protect natural resources such as water quality, threatened and endangered species, and propose mitigation to offset the impacts that could not be avoided or minimized during the permitting process. The Tractebel-Calypso Natural Gas Pipeline Nearshore Construction Monitoring Plan; Marine Mitigation Plan; and all appendices have been attached to and become part of the permit.

In order to offset the impacts to 6.76 acres of livebottom and coral reef habitats (Habitat Types A-0.28 acre, B-2.22 acre, and C-4.26 acres) and the habitat conversion of 0.38 acre of low relief livebottom or hardbottom covered with a sand veneer (Habitat Type D), the applicant shall remove 229,126 tires (15.78 mitigation units) from a 31-acre artificial automobile tire reef site created in the late 1970s-early 1980s off the coast of Broward County. Storm events and ocean currents have moved the tires from their original deployment site in sandy bottoms up onto the second and third reef systems resulting in significant impacts to natural marine resources. It is the intent of the mitigation plan to enhance the existing natural reef systems by removing the tires from on top of and adjacent to the reefs thus allowing natural restoration of the newly exposed reef face by recruitment of new coral species.

Permitted Tractebel Calypso Mitigation Ratios

Habitat Type	Mitigation Ratios
A- 20-100% cover by attached epi-benthic biota and/or hard bottom with > or = 0.25 meters in relief, inclusive of sand components integral to these habitats	8 units:1acre
B- 5-20% cover by attached epi-benthic biota and/or hard bottom with <0.25 meters in relief, inclusive of sand components integral to these habitats	5 units:1acre
C- Breakwater spoil Area- livebottom	2 units:1acre
D- sand (soft substrate/sedimentary habitat in proximity to reef/hard bottom resources, and a sandy veneer over hard substrate with <5% attached epi- benthic coverage	1 unit:1acre

- One mitigation unit is equal to the number of tires comprising an acre of the tire field, one layer deep. The area covered by one tire is 3.0 square feet. Therefore, the number of tires contained in one acre of a single layer of tires = (43,560 square feet per acre)/(3 square feet per tire) = 14,520 tires per mitigation unit.
- The number of tires that will need to be removed to offset unavoidable impacts to marine resources for the Tractebel Calypso Pipeline project = (15.78 mitigation units) x (14,520 tires per unit) = 229,126 tires.

The proposed compensatory mitigation for the nearshore marine portion of the Tractebel Calypso Pipeline project will consist of two primary activities: (1) the one-time removal and DEP approved disposal of 15.78 mitigation units (229,126 tires) from a portion of the Priority Area 1 of an artificial reef site north of the construction area; and (2) the applicant shall provide funds to Broward County Department of Planning and Environmental Protection for the long-term monitoring of the mitigation area.

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The applicant will implement several innovative construction methods proposed to minimize impacts to the offshore marine environment, however there are associated risks. While the water-to-water horizontal directional drilling method offers impact minimization, there are higher environmental risks associated with this methodology than with the traditional upland to upland bores commonly used. Also, empirical evidence shows that there is a high probability of an inadvertent release of drilling mud that may occur on the ocean floor causing potential damage to the coral reefs and other important marine resources. The applicant proposes the use of guide piles to direct an approximately 5,800-linear-foot curved pipeline segment into the HDD bore hole and to keep the impacts within a five-foot corridor. There is a risk that a guide pile(s) may fail under the pressure of the pipeline pull, causing unanticipated impacts.

Bore hole abandonment during drilling, guide pile failure during pull back, and failure to successfully pull back the pipeline into the bore holes all represent failure of the construction methodologies proposed for the offshore pipeline installation. Because of these environmental risks associated with the pipeline construction, the environmental resource permit (ERP) authorizes only one attempt at the following pipeline installation methods.

- One HDD (HDD #1) bore hole originating from John U. Lloyd State Park and punching out 4,616 feet offshore within a hardbottom/livebottom area known as the Submerged Breakwater Spoil Area and one associated guided pull in.
- One 2,132-foot long by 25-foot wide by 6-foot deep trench excavated through the Submerged Breakwater Spoil Area.
- One HDD (HDD #2) 5,130-foot water-to-water drill beginning in the Submerged Breakwater Spoil Area, extending under the second and third coral reef systems terminating in the Third Reef Transitional Area and one associated pull in.

The applicant shall successfully complete installation of the nearshore pipeline project segment (inclusive of the HDD B and pull back, HDD #1 and the Guided Pull, the Open Cut Trench, HDD #2, and the HDD #2 pull back) before initiating construction of any other pipeline segment or facility, including the remainder of the onshore route portion of the project or the remainder of the offshore portion within the State of Florida's jurisdiction.

To address the increased risk of possible additional unanticipated environmental impacts, the applicant shall provide to DEP with financial assurance for inadvertent or non-permitted environmental damage in the amount of \$1,500,000. In the event of additional unanticipated environmental impacts, these monies will compensate the state for the costs of assessing the environmental damage incurred and reasonable measures taken to prevent or limit environmental damage and for clean-up and restoration of the environment to its previous state; and to cover costs where responsibility for the damage cannot be determined, or where those liable are insolvent.

The environmental review process for the Tractebel Calypso Pipeline project was achieved through a "coordinated permitting" approach. Beginning in August of 2001, a core group of agency representatives frequently met with the applicant to discuss means of avoiding and minimizing impacts to wetlands and coral reef habitat. Consideration was given to alternative alignments, construction methodologies, contingency plans, and other best management practices that should be incorporated into the construction procedures to address unanticipated accidents or impacts. Members of this "Coordination Team" included representatives from the DEP's Southeast District Office ERP program, DEP's Office of Intergovernmental Programs, Broward County Department of Planning and Environmental Protection, National Oceanic and Atmospheric Administration's National Fisheries Management Service, U.S. Army Corps of

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Engineers, Florida Fish and Wildlife Conservation Commission's (FFWCC) Florida Marine Research Institute, FFWCC's Bureau of Protected Species, U.S. Environmental Protection Agency, and the Port Everglades Port Authority. The result of this coordinated effort was a streamlined review process for the applicant and the development of detailed marine construction contingency plans to aid in resource protection.

The Tractebel Calypso Pipeline project was required to go through two independent processes with the Federal Energy Regulatory Commission (FERC). One was a determination of Public Convenience and Necessity, and the other was an environmental impact statement completed by a consulting firm contracted by FERC. For the demonstration of Public Convenience and Necessity or "project need," the reviewers were required to look at each pipeline project individually to see if each pipeline, as a stand-alone project, would fulfill the requirements of Florida's ten-year energy plan. On May 1, 2003, FERC made a preliminary determination that the applicant's proposed facilities would help satisfy the growing demand for natural gas in Florida. FERC issued a favorable final environmental impact statement on January 23, 2004, and is soon expected to issue final certification to the applicant.

Pursuant to section 18-21.004(1)(e), F.A.C., the project is being recommended for a fee associated public easement. The applicant proposes a 200-foot-wide temporary construction easement which reduces to a 25-foot wide permanent easement running along the centerline. The easement fees were developed to follow the Board of Trustees' decision on the telecommunication lines and conduits negotiated fees. The fee was calculated as follows: \$0.006 by 25-foot-wide easement = \$0.15 per linear foot as determined by a real property appraisal and \$5.00 per linear foot of pipeline as an interim "enhanced value or profit gained" fee (based on a minimum width of 10 feet) that crosses sovereignty submerged lands of the territorial sea out to the state's territorial limit, and prorated for any increases in width due to the placement of gabions or mats covering the pipeline.

There is a pending non-compliance issue related to a geotechnical boring permit issued for work performed in relation to the gas pipeline project. There was a deviation from the permitted activity that resulted in inadvertent/unpermitted impacts to hardbottom and coral reef habitat on 7 of the 11 bore sites. A mitigation plan has been submitted and is currently under review by DEP. Discussions are on-going with the applicant to settle the violation through a consent order.

The City of Dania Beach (City) passed and adopted on January 28, 2003 a resolution (2003-012) of the City Commission opposing the construction of the Tractebel Calypso Pipeline project. The resolution expressed the following concerns: risks of substantial injury to reefs and marine life; damage to the City's shoreline, roadways, and right-of-ways; probable interruption of utility services; potential for harmful exposure to the City's residents and visitors by leaks, ruptures, and terrorist attacks on the pipeline; and possible adverse effects upon air quality. The resolution states that the environmental issues and other concerns associated with the pipeline construction preclude the City's support of the project. All surveys have been completed and no part of the sovereignty submerged lands easements sought pass through Dania Beach.

The recommendation of FFWCC regarding the protection of manatees and sea turtles have been addressed in the ERP.

Property owners within a 500-foot radius of the proposed public easement were specifically noticed via certified mail, pursuant to section 253.115, F.S., and no comments or objections were received.

To construct a project within sovereignty submerged lands outside of an aquatic preserve, it must be demonstrated that the project is not contrary to public interest. The project is not

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located in an aquatic preserve. The construction of the proposed facilities will help satisfy the growing demand for natural gas in Florida, diversify the sources of supply to the state, and increase competitive alternatives to the existing pipeline infrastructure. The applicant's project will provide a public benefit because it will introduce substantial new volumes of clean burning natural gas into Florida. DEP staff is of the opinion that with the payment of equitable compensation, environmental resource remediation and mitigation the proposed project is not contrary to the public interest pursuant to section 18-21.004(1)(a), F.A.C.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs (DCA), Division of Community Planning, determined that the project is consistent with the statutes included in the Florida Coastal Management Program, however they had several recommendations regarding public safety related issues. DCA recommends the applicant: (1) construct the entire pipeline to U.S. Department of Transportation Safety, Office of Pipeline Safety, Class 4 Standards in order to eliminate the need for future upgrades and to provide an additional measure of protection to persons living or working near the pipeline; (2) join the Florida One Call Program; and (3) submit to the Division of Community Planning an emergency response plan prior to construction. The plan should describe the pipeline operator's notification procedures, internal response and coordination and should describe the applicant's procedures in preparing for and responding to a storm or terrorist event during construction and operation of the pipeline and associated facilities. Also, the plan should reflect an awareness of the Broward County and state emergency management procedures. The applicant has stated the pipeline will meet or exceed all of the preemptive safety regulations of the Office of Pipeline Safety, USDOT, as found at 49 CRF 192, will join the Florida's One Call Program, and will submit an emergency response plan to DCA prior to construction.

(See Attachment 8, Pages 1-69)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,
AND SPECIAL EASEMENT CONDITIONS**